



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/687,811	07/26/96	ATKINS	M BPE-2-064

FAY SHARPE BEALL FAGAN
MINNICH AND MCKEE
1100 SUPERIOR AVENUE
SUITE 700
CLEVELAND OH 44114-2518

12M2/1014

EXAMINER

SHIPPEN, M

ART UNIT

PAPER NUMBER

1204

DATE MAILED:

10/14/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/687,811

Applicant(s)
Martin P. Atkins

Examiner
Michael L. Shippen

Group Art Unit
1204



☒ Responsive to communication(s) filed on Jul 11, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-6, 8-11, 14, and 16-31 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-6, 8-11, 14, and 16-31 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Serial Number: 08/687,811
Art Unit: 1204

-2-

Part III DETAILED ACTION

Claim Rejections - 35 USC § 102

Claims 1-3, 14 and 16-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sano (EP 562,139) for reasons of record. Applicants assert that the reference does not teach the instant catalyst. However, the claimed catalysts would read on the catalyst of Comparative Example 4 of the reference.

Claim Rejections - 35 USC § 103

Claims 1-6, 8-11, 14 and 16-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sano (EP 562,139) in view of Inoue and Deller. The primary reference is applied as above. The primary reference teaches the claimed process except for some of the claims limitations with respect to specific carriers and the addition of ether. While the instant catalyst is not preferred by the reference, the reference is not limited to the preferred embodiments. As to the use of a support, the reference suggest that known supports may be used.

Serial Number: 08/687,811

-3-

Art Unit: 1204

The specific carriers recited are known catalysts carriers as shown by Deller and would be expected to be suitable for the prior art process. It would be obvious to one of ordinary skill in the art that the same advantages of using a carrier would be obtained in the primary reference processes. As to the use of an ether, Inoue suggest in column 7 that other materials such as alkoxy substituted cyclopentanes (cyclohexanes, cycloheptanes and cyclooctanes) and the like may be added to the reaction zone in analogous processes. Such materials are ethers which the claims appear to read upon. One would expect such to be suitable for use in other analogous process such as the Sano process.

Conclusion

To the extent the above rejection would be considered a new grounds of rejection, it was necessitated by applicant's amendment. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is

Serial Number: 08/687,811

-4-

Art Unit: 1204

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael L. Shippen** whose telephone number is **(703) 308-4635**. The Examiner's normal tour of duty is 8:00 AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 308-1235**. The Examiner's supervisor, **Gray Geist**, may be reached at **(703) 308-1701**. The official group FAX machine number is **(703) 308-4556**.

MShippen

October 10, 1997

**MICHAEL L. SHIPPEN
PRIMARY EXAMINER
ART UNIT 1204**